

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 18, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of February 18, 2004, was called to order by Mayor Hansen at 5:34 p.m.

Present: Council Members – Beckman, Howard, Land, and Mayor Hansen

Absent: Council Members – Hitchcock

Also Present: Deputy City Manager Keeter, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658

c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases

C-3 ADJOURN TO CLOSED SESSION

At 5:34 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:10 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:15 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item G-2 (a), Council approved going forward with an audit by Barger & Wolen of the bills of prior counsel on the M&P Investments case, subject to it being paid as a defense cost; Council approved a waiver of a conflict of interest for Barger & Wolen to proceed with its representation of the City.

In regard to Item C-2 (b), no reportable action was taken.

In regard to Item C-2 (c), no reportable action was taken.

A. CALL TO ORDER / ROLL CALL

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Present: Council Members – Beckman, Howard, Land, and Mayor Hansen

Absent: Council Members – Hitchcock

Also Present: Deputy City Manager Keeter, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Reverend Fred Chacon, Loving Hymn Ministries.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Boy Scout Troop 199.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Patricia Sherman, President of Animal Friends Connection Humane Society, proclaiming the month of February 2004 as “Prevent a Litter Month / Spay Day USA 2004” in the City of Lodi.

D-3 (a) Gabi del Castillo and Elisa Villarreal, members of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Alexandra Hodge from Lodi High School, and provided an update on the accomplishments of the Commission.

D-3 (b) Mayor Hansen presented Certificates of Recognition to Boy Scouts Jonathan David Gilbert and William Joseph Glissman for obtaining the rank of Eagle Scout.

D-3 (c) Hutchins Street Square Foundation Chairman Dennis Bennett stated that the Foundation has made an attempt each year to make a voluntary contribution of \$150,000 toward the repayment of the Certificates of Participation that were utilized for the reconstruction of Hutchins Street Square. Last year Council approved the Foundation's request to use \$75,000 in contributions toward installation of benches on the stage of the theater, which has been completed. Mr. Bennett presented Mayor Hansen, who accepted on behalf of the City, with a monetary gift of \$75,000, noting that it fulfills the Foundation's obligation for this year.

D-3 (d) Janet Hamilton, Management Analyst, announced that the Su Salud's Tour of Life event, which focuses on health education, is scheduled to be held on March 7 in Lodi.

COMMENTS BY THE PUBLIC ON CONSENT CALENDAR ITEMS

- In reference to Item E-3, Rich Edwards stated that his company was not afforded the opportunity to bid on the contract because it was not notified. He believed that the bid being considered by Council was overpriced by \$20,000 a year.

Deputy City Manager Keeter reported that notices were mailed to those as indicated in the staff report for Item E-3. In addition, there were notices published three times in the Lodi and Manteca newspapers.

- In reference to Item E-15, Jim Womack stated that he represented 96 members of the Tokay Radio Controlled Modelers. Since 1972, 800 members have enjoyed the sport of model aviation at Pixley Park. The club has held demonstrations with school groups and conducted model building classes through the Parks and Recreation Department.
- In reference to Item E-15, Ken Knowles stated that he has been a member of the Tokay Radio Controlled Modelers for 15 years. He has been a teacher at Tokay High School for the past 20 years and has led a modeling club for students. He urged Council to support an agreement for an alternate flying site for the club.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, approved the following items hereinafter set forth by the vote shown below:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Hitchcock

E-1 Claims were approved in the amount of \$2,148,783.31.

E-2 The minutes of January 20, 2004 (Shirtsleeve Session), January 21, 2004 (Regular Meeting), January 27, 2004 (Shirtsleeve Session), and February 3, 2004 (Shirtsleeve Session) were approved as written.

- E-3 Adopted Resolution No. 2004-22 awarding the contract for Security Services at the Lodi Station/Lodi Station Parking Structure to Securitas, of Stockton, in the amount of \$113,710.
- E-4 Accepted the improvements under the "Lodi Avenue Asphalt Concrete Resurfacing, Ham Lane to Union Pacific Railroad" contract.
- E-5 Accepted the improvements under the "Kettleman Lane Median Improvements, Hutchins Street to School Street" contract.
- E-6 Accepted the improvements under the "Lockeford Street Storm Drainage Improvements, Mills Avenue to 300 feet east of Loma Drive" contract.
- E-7 Adopted Resolution No. 2004-23 awarding the bid and authorizing the City Manager to execute a contract for the City of Lodi/Lodi Unified School District Compressed Natural Gas Fueling Station Equipment with Allsup Corporation, of Upland, in the amount of \$308,280, and to appropriate funds upon receipt of written funding commitment from Lodi Unified School District.
- E-8 Adopted Resolution No. 2004-24 awarding the bid and authorizing the City Manager to execute a contract for the City of Lodi/Lodi Unified School District Compressed Natural Gas Fueling Station Construction with Performance Mechanical, Inc., of Sacramento, in the amount of \$315,310 (includes bid alternates), and to appropriate funds upon receipt of written funding commitment from Lodi Unified School District.
- E-9 Authorized the City Manager to amend the professional service agreement with PMC Consultants for the preparation of the environmental impact report for the proposed commercial development at the southwest corner of Lower Sacramento Road and Kettleman Lane.
- E-10 Adopted Resolution No. 2004-25 approving Lodi's submittal of Reasonably Available Control Measures for the San Joaquin Valley Air Pollution Control District's 2010 Ozone Attainment Plan.
- E-11 Adopted Resolution No. 2004-26 authorizing submittals of Safe Routes to School grants to the California Department of Transportation.
- E-12 Adopted Resolution No. 2004-27 amending Traffic Resolution 97-148 Section 3E by authorizing the City Manager to establish special reserved parking for vehicle inspection and/or emergency vehicle parking and angled parking on portions of Elm Street west of Church Street, adjacent to the Police Department at 215 West Elm Street.
- E-13 Adopted Resolution No. 2004-28 directing the City Clerk to prepare ordinance summaries for publication pursuant to California Government Code §36933.
- E-14 Set public hearing for March 3, 2004, to consider and approve community input and proposals for uses of the City's 2004-05 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.
- E-15 Set public hearing for March 17, 2004, to consider redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow the relocation of C-Basin and refer the matter to the Planning Commission.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Dave Towne, representing the Maintenance and Operators bargaining unit, reminded Council that it does not have a contract. The unit wishes to engage in dialog with the Council focusing on the importance of the work it performs. The services it provides are vital to the community. Mr. Towne felt that the Maintenance and Operators unit employees were not being treated fairly, as they are not offered the same or equal benefits to other groups. He stated that the Council seems to place Police, Fire, and Electric Utility on a pedestal, without recognizing that their work could not be accomplished without the services of the Maintenance and Operators unit.
- Juan Diaz, owner of La Capilla market on Cherokee Lane, reported that he received a letter from the City notifying him that he is in violation of many City codes, including having an overseas container on his property without a permit. Mr. Diaz stated that he took 50 photos of other such violations in the City and questioned why he was being singled out. Mr. Diaz felt that two City employees were harassing him and asked that he be allowed to have a meeting with the Mayor and City Manager to address these issues. In addition, he noted that the large store across the street from his market received two beer licenses before the City would issue him one, which he considered to be discriminatory.

Mayor Hansen asked Deputy City Manager Keeter to schedule a meeting as requested by Mr. Diaz.

RECESS

At 8:00 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:07 p.m.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider Reimbursement Agreement RA-03-04 establishing an area of benefit and reimbursable costs for developer-funded public improvements for the Harney Lane sanitary sewer lift station and sanitary sewer trunk line.

Lyman Chang, Associate Civil Engineer, reported that as a condition of development, the developer of the Century Meadows One Unit 2 subdivision, K & W Development, was required to install the Harney Lane Sewer Lift Station and a sanitary sewer trunk line to provide sewer service for the subdivision project. The lift station is located at the southeast corner of Harney Lane and Mills Avenue. The sewer trunk line is in Harney Lane between Mills Avenue and the Woodbridge Irrigation District canal. The area south of Harney Lane was originally not part of the lift station service area. A group of property owners requested that the lift station and sewer trunk line be oversized to accommodate them when they develop in the future. K & W funded the cost of the over sizing and it was paid directly by the property owners. The reimbursable lift station costs are prorated based on the proportion of the parcel acreage to the total acreage of Zones A and B, which is approximately 225 acres. The reimbursable sewer trunk line costs are prorated based on the proportion of the parcel acreage to the total acreage of Zone A only, which is approximately 62 acres. The reimbursable costs for the benefit area are listed on Exhibit B in the Reimbursement Agreement (filed). In the event that the parcels develop (Zones A and B) the cost will be collected by the City and reimbursed to K & W. The Reimbursement Agreement has a term of 15 years, which will end 2019.

Hearing Opened to the Public

- Don Lackyard stated that he has a well and septic tank and has no intention of hooking up to the City water or sewer. He reported that when they tore up the road and put the trunk line in front of his home, they stubbed out the water and sewer for future hook up and in the process tore out 12 feet of his flower bed.

Public Works Director Prima explained that residents are not charged until they request a hook up. He noted, however, that if a well or septic tank failed, the County may not want to issue a new permit and the property owner would have to ask the City to hook them up to the system.

- Bob Van Ruiten asked whether the sewage would be pumped in the opposite direction of the sewer plant, as well as questions related to the pump station.

Mr. Prima answered that it is drained by gravity to the lift station and pumped up to the trunk line and out. It is pumped north into Mills Avenue, which winds up in the Century line and back out. He replied that another sewage pump station would not be needed if Century Boulevard were to go west; however, there could be other costs for water lines, etc.

- Bill Newman questioned how the City determined the year 2011 for development of Sunnyside Estates.

Mr. Chang explained that it was an estimate of when residents of Sunnyside Estates would request to hook up to City services; it was not a mandated or fixed time period that residents have to do so.

- Robert Hathaway inquired whether a fee would be charged to buyers of Sunnyside Estates property. In addition, he asked how many property owners in Sunnyside Estates would have to agree to the hookup for the City to connect all the properties to the services, or if a single property could make the request.

Mr. Prima answered that he was not aware of a fee that would be charged to buyers of property in Sunnyside Estates. He recalled that in similar situations in the past property owners formed their own assessment district to pay for the cost of building the sewers. He did not believe it was practical for one property owner at a time to hook up to the service and suggested that Mr. Hathaway discuss the matter with his neighbors to create a larger group. Mr. Prima pointed out that Sunnyside Estates has not been annexed into the City and Public Works does not provide sewer service for properties outside the City.

- Andy Lee asked whether the reimbursement is to hook up to the sewer.

Mr. Prima explained that the amount in the mailing that property owners received was to pay for the share of the cost of the lift station. It does not include the cost of any sewer that was extended by the other developer, nor does it include the cost to build sewers within the Sunnyside Estates subdivision. The facilities were sized to handle the Sunnyside Estates lots at some future date.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, adopted Resolution No. 2004-29 establishing an area of benefit and reimbursable costs for developer-funded public improvements for the Harney Lane Sanitary Sewer Lift Station and sanitary sewer trunk line. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Hitchcock

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, made the following appointments by the vote shown below:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – Hitchcock

Lodi Arts Commission

Robert Clemons Term to expire July 1, 2007

Judy Bader Term to expire July 1, 2005

- b) The City Council, on motion of Council Member Land, Beckman second, directed the City Clerk to post for the following vacancy by the vote shown below:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – Hitchcock

East Side Improvement Committee

Rosie Ortiz Term to expire March 1, 2005

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 “Updates from Mayor Larry Hansen regarding the following issues: 1) Barger & Wolen audit of Envision Law Group’s billings, 2) progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation, and 3) legal proceedings relative to the Environmental Abatement Program litigation”

Mayor Hansen reported that the audit by Barger & Wolen is continuing to go forward. Thirty firms have replied to the Request for Information (RFI) for legal services and the deadline is March 2. They will be screened, after which Council will conduct interviews and make a selection. The City has participated in settlement hearings with defendants and their attorneys from Busy Bee and Guild. There have also been meetings by City personnel with members of the Regional Water Quality Control Board (RWQCB). A meeting will be held Friday with the Department of Toxic Substances Control (DTSC). The RWQCB is considering moving the date of its order to sometime in April. He stated that the two state agencies are willing to work with the City as much as possible to increase the time line of settlement and contribution phases and to bring the responsible parties to the table for honest and sincere negotiations.

Council Member Land read the following statement from a letter dated February 5, 2004, from the DTSC, “A series of discussions by the trial and appellate courts in the ongoing litigation, as well as actions by the City, have led DTSC to conclude that the City can no longer effectively lead the enforcement effort to require cleanup of the site or participate in the State agencies enforcement efforts.” Addressing the Mayor, he asked whether DTSC is now in the position to take over as the lead agency.

Mayor Hansen replied that he had spoken to the Director of DTSC who indicated that he is willing to discuss it.

Council Member Land expressed hope that DTSC can be convinced that it and the City can continue to work together on this matter. He mentioned that he felt sorry for businesses in the community if DTSC takes over, because the State is not as forgiving as the City or working with Council Members. Mr. Land noted that the City Clerk was able to locate a copy of the endorsement dated September 9, 1997, from the United States Conference of Mayors that he had referred to at a previous meeting. It asked the Environmental Protection Agency to help local governments clean up contaminated sites and hold

polluters responsible by quickly approving requests for information gathering authority submitted under CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act). He noted that one of the RFIs was sent to the firm of Isola and Bowers. Mr. Land stated that Aaron Bowers has been one of the biggest critics against the City and its groundwater contamination litigation strategy. Mr. Bowers represents Oddfellows who is one of the defendants in the case. He read the following statement that Mr. Bowers had written, "Mr. Donovan was accurate in one respect, that it is the insurance companies that should be forced to fund the environmental response activities." Mr. Land noted that that is what the City has been trying to do since 1989. The City filed its first claim against its own insurance company on October 14, 1997. It took nearly six years and a court order before USF&G began paying defense costs.

Mayor Hansen stated that it is still the City Council's goal to do everything it can to protect businesses and keep the insurance companies at the table to pay their part in the cleanup.

MOTION/ VOTE:

There was no Council action necessary on this matter.

I-2 "Discussion and direction regarding adjusting water and wastewater rates"

Public Works Director Prima noted that the summary of Water/Wastewater Rate Adjustments on page 3 of the staff report (filed) are not final numbers; they are approximations. He reported that Water, Wastewater, and Electric Utility pay the General Fund in-lieu of taxes each year an amount in accordance with budget policies. He asked Council to consider whether the transfer should be maintained per the policy or reduced. In addition he asked for direction regarding including an amount in the rate adjustment for PCE/TCE Environmental Abatement Program (EAP) costs.

Mr. Prima reported that the Water Fund provides the operation and capital expenses for providing fresh water to Lodi residents. Last year a decision was made to purchase water from the Woodbridge Irrigation District to help reduce the City's reliance on groundwater, which is overdraft in the Lodi area and is a resource that is not being replenished. The cost for the contract was \$1.2 million a year. The cost to use that water, whether through a treatment plant, groundwater recharge, etc., is still being studied. The Water Fund is near zero and has been paying for the EAP litigation. Staff suggests that revenue be increased to the Water Fund by \$1.2 million per year (i.e. 24% increase) to cover this cost.

The Wastewater Fund takes care of collection of domestic waste and also includes the storm drainage program. It handles the wastewater treatment and the discharge requirements that come from the State regarding discharge to the Delta. The City has embarked on a major capital improvement program to upgrade the White Slough Treatment Facility. Phase 1 was initiated last year. Currently the City is at Phase 2 and is ready to install equipment that the Council authorized purchase of last December. The City purchased \$3.5 million dollars worth of filters and disinfection equipment and is ready to go out to bid for the installation of the equipment. The total project is \$15 to \$20 million including the cost of the equipment. Staff will return to Council with financing options. Increased debt service related to the Phase 2 project is estimated at \$2 million a year. In addition to the debt service there will be an additional \$500,000 a year needed for operations costs.

Mr. Prima explained that in addition to monthly service charges for wastewater, Public Works charges a capacity fee, which is a new connection fee that is charged to all new hook ups to the system. It helps pay for the wastewater plant and other major citywide improvements related to wastewater. The fee is currently \$2,099 for a two-bedroom home and may be increased to \$3,600. Staff will return to Council for approval of the fee increase.

Mr. Prima recalled that previously rate increases were suggested for July 2004 and July 2005; however, it was later determined that in order to issue additional debt in this fiscal year, the rate increase will have to be effective in May 2004. Debt service on a 1991 Certificate of Participation (COP) that runs through 2027 is \$800,000 per year. When Phase 1 began, \$5 million was borrowed through the California Statewide Community Development Authority for a 20-year period with a debt service of \$380,000 per year. The proposed 2004 COP is \$25 million, which would cover the cost of the equipment that was purchased in December, its installation, and funding to acquire additional land at White Slough, as well as to move forward with Phase 3 project design and environmental work. Debt service on a 20-year basis would be \$2 million a year, and \$1.6 million a year for a 30-year term.

Mr. Prima recalled that a couple of years ago the City began a replacement program for its aging infrastructure. Council adopted a series of rate increases, both in Water and Wastewater to replace the 80- to 100-year old pipes. Last year the first project was completed for just over \$1 million. Staff hopes to come back to Council this summer for approval to begin the next project that is estimated to cost \$2.7 million, of which two-thirds would be paid from the Water fund and one-third from the Wastewater fund. A number of other small projects are planned such as replacing sewer lines due to the groundwater PCE/TCE contamination. He noted that the sewer line south of Pine Street between Church and Hutchins Street was replaced last year at a cost of \$110,000.

RECESS

At 9:05 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:13 p.m.

I. REGULAR CALENDAR (Continued)

I-2 Council Member Land pointed out that utility bills separately list amounts for the water and (Cont'd.) wastewater replacement programs. This leads customers to believe that the money goes into special accounts to pay for replacement cost of infrastructure.

Mr. Prima explained that the Water and Wastewater funds are separate funds within the entire City operation and within these funds there are sub funds. Account 17.0 receives all the revenue from rates, both infrastructure replacement and the service charge for Wastewater. Account 17.1 is the capital outlay fund that pays for all capital projects except for White Slough. Recently a process has begun where the revenue from the replacement amount (shown on utility bills as a separate item) is automatically transferred from 17.0 to 17.1. As of today, the trial balance shows that the Wastewater capital outlay fund has \$2.6 million and the Water fund has \$2 million. Mr. Prima noted that if there is a shortage in one fund, the other fund automatically makes it up. In Water there is an operating fund, capital outlay fund, impact mitigation fee sub fund, and PCE/TCE expense sub fund; in total the balance of these funds is less than \$1 million. Mr. Prima recalled that when the EAP litigation began, the Water fund had just received a \$6 million settlement from a previous lawsuit regarding the chemical DBCP that was in the groundwater. That money is nearly gone now. He stated that the Water fund cannot continue to pay EAP litigation costs for very much longer without it affecting other funds. He asked Council to consider whether the Wastewater fund should be paying for some of this cost.

Mr. Prima reported that the revenue in the Water fund is \$5.6 million. He reiterated that to raise an additional \$1.2 million will mean a 24% increase in rates. If the in-lieu of taxes transfer was reduced from 12% to 10%, then the rate increase only needs to be 21.3% to provide the additional \$1.2 million in the Water fund.

Council Member Howard felt that money should be allocated so that bills from the law firms of Barger and Wolen and Kronick Moskovitz Tiedemann & Girard can be paid in a timely manner.

Mayor Hansen stated that the City will have some degree of responsibility in terms of the sewer system and there could be a cost that the City will have to contribute in the overall EAP settlement. There are still a lot of issues that need to be resolved in terms of the financing, recovery, and insurance companies. There are additional funds that the City has the potential to bring to the table from insurance companies that will hopefully offset some of the cost.

Mr. Prima reviewed monthly rate comparisons from other San Joaquin County agencies and cities, as outlined in the staff report. He recommended that there be one set of eligibility requirements for all utilities for the City's low-income discount programs and that the discount be set by resolution. Currently the discount is 10%.

Council Member Land suggested that the discount be tiered so that the percentage is greater for those with very low household incomes. He pointed out that the current policy states, "once the application is approved it is up to the applicant to notify the Finance Department within 30 days of becoming ineligible." He recommended that it be changed so that once a year, or every two years, by April 15 the program participants are required to bring in their income tax statement so that their continued eligibility can be verified.

In reference to the in-lieu of tax transfer, Mayor Hansen, and Council Members Howard and Land preferred that a revenue neutral process be used.

Mayor Pro Tempore Beckman voiced support for reducing the in-lieu transfers.

Mr. Prima asked whether Council wanted an allowance made for the EAP litigation costs.

Mayor Pro Tempore Beckman favored a rate increase to cover the cost; however, he asked that a determination be made on the exact cost and that it be described on the utility bill with an end date listed. Mr. Beckman stated that he would not vote for increases unless an end date was specified.

Council Members Land and Howard were opposed to any increase in rates related to the EAP litigation. Mr. Land stated that the responsibility lies with the insurance companies and the business owners who contributed to the contamination. He expressed his opinion that DTSC should be the lead agency and that the State take over enforcement. Mr. Land pointed out that prior to terminating the contract with Envision Law Group, it had been accruing and holding its bills, and would only have received reimbursement if the City prevailed in court.

Interim City Attorney Schwabauer commented that funding has been coming from a loan that is now depleted and there has to be a new source.

Deputy City Manager Keeter suggested that a closed session be scheduled to discuss the matter further prior to Public Works coming back with a recommendation for the rate adjustment.

Council concurred that the COPs be for a term of 20 years with a call date / option to refinance.

In regard to the low-income discount program, Mayor Hansen asked Mr. Prima to return to Council with figures for discounts of 10%, 20%, 25%, 30%, and 35%.

Council Member Howard stated that a discount amount, which negates the rate increase, would be as high as she would want it to go. She was more agreeable to increasing eligibility and leaving the percentage rate at 10%.

PUBLIC COMMENTS:

- Eileen St. Yves reported that her 86-unit apartment complex is currently paying over \$1,000 a month for infrastructure replacement fees. Every time a rate is increased it works against affordable housing. She pointed out that the City's fiscal year begins in July, yet most businesses begin in January, which should be taken into consideration. She preferred that the rates be increased according to a cost of living adjustment so that it can be budgeted for.

MOTION / VOTE:

There was no Council action taken on this matter.

- I-3 "Introduce ordinance repealing and reenacting Lodi Municipal Code §13.04.130 establishing low-income discounts for water, sewer, and refuse services" was ***pulled from the agenda and continued to the regular City Council meeting of March 3, 2004.***

- I-4 "Discussion of City Attorney recruitment"

Human Resources Director Narloch stated that she would like to meet with Council prior to the close of the filing period on April 16 to determine screening criteria and develop a profile for the position. This information will also be utilized when checking references. She noted that Council appointees receive 1% less in deferred comp match than do all other employees in the City. In addition, appointees' life insurance is less than department heads and they are not contributing toward their medical insurance premiums. She suggested that Council consider this when negotiating benefits with the new City Attorney.

Mayor Hansen mentioned that if the March 2 state bond measure fails and the City must make significant budget cuts, Council may want to consider whether it wants to go forward with having two city attorneys under tight budget constraints.

Council Member Land felt that the recruitment process should continue.

Mayor Pro Tempore Beckman pointed out that it may be more expensive to continue the services of outside counsel, than it would to have two in-house attorneys, and suggested that a cost comparison be done.

MOTION / VOTE:

There was no Council action necessary on this matter.

- I-5 "Adopt resolution authorizing the City Attorney's Office to hire a contract docket clerk to assist with the Environmental Abatement Program litigation and appropriate funds for this expense (\$5,000)"

Interim City Attorney Schwabauer estimated that he would need the services of a contract docket clerk for four to five months. An hourly contract rate of \$24, without benefits, will be paid.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Land second, adopted Resolution No. 2004-30 authorizing the City Attorney's Office to hire a temporary contract docket clerk to assist with the Environmental Abatement Program litigation and appropriated funds in an amount up to \$5,000 from the Wastewater Fund for this expense. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Hitchcock

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Land announced that the American Red Cross CPR Saturday event would be held on March 13. He asked that the policy regarding a City match for money raised by Hutchins Street Square be brought back to Council for consideration. He suggested that the match be increased to \$2 for \$1 as an incentive for one year.

Deputy City Manager Keeter recalled that the policy began as a dollar for dollar match and was lowered to 50 cents to the dollar. She stated that the policy will be brought to Council in March or the first part of April.

- Mayor Hansen congratulated Mayor Pro Tempore Beckman on the recent one-year anniversary of his marriage.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- Deputy City Manager Keeter noted that the City Manager regretted not being present this evening, due to illness.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:43 p.m., in memory of: 1) Mendes "Duke" Nepote, who was active in Lodi's Sister City Committee for many years (passed away on February 12); 2) Jerald Kirsten, former Lodi Mayor (passed away on February 15); and 3) Ralph Hitchcock, father of Council Member Susan Hitchcock (passed away on February 17).

ATTEST:

Susan J. Blackston
City Clerk